S.B.CIVIL MISC. APPEAL NO.280/2005

The New India Assurance Co. Ltd.
vs.
Smt. Shanti Bai and others.

DATE OF JUDGMENT ::: 24.3.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. D Choudhary, for the appellant.
Mr. BK Bhatnagar, for the respondent no.4.

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Heard learned counsel for the parties finally in view of the fact that a short point only is involved and that too is covered by the judgments of Hon'ble Apex Court as well of this Court.

The appellant is aggrieved against the order of the Workmen's Compensation Commissioner, Jodhpur dated 29.12.2004 by which he has awarded compensation of Rs.1,78,490/- and interest to the tune of Rs.1,40,777/-. The Commissioner also imposed penalty of Rs.89,245/-. The appellant is aggrieved against the said award of penalty and direction of penalty to pay that amount to the claimants by it.

Now it is well settled law that so far as penalty amount is concerned, that is the liability of the employer and not of the insurance company.

In view of the above, this appeal is allowed and it is held that the appellant shall not be liable to pay the penalty amount in pursuance of the award dated 29.12.2004.

The amount of penalty, if has been already deposited by the appellant, the same be refunded to it.

(PRAKASH TATIA), J.

S.Phophaliya